



## Senate

General Assembly

**File No. 153**

January Session, 2015

Substitute Senate Bill No. 881

*Senate, March 23, 2015*

The Committee on Planning and Development reported through SEN. OSTEN of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE TAKING OF INTANGIBLE PERSONAL PROPERTY BY THE STATE OR ANY POLITICAL SUBDIVISION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1      Section 1. (NEW) (*Effective January 1, 2016*) Notwithstanding any  
2      general statute, special act or public act, the state and any political  
3      subdivision thereof shall not take intangible personal property by  
4      eminent domain.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2016</i>	New section
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**PD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** See Below

**Municipal Impact:** See Below

**Explanation**

The bill prohibits the state and municipalities from taking intangible personal property by eminent domain.

The impact of the bill is indeterminate, as it varies based on the specific projects that are impeded by a ban on the taking of intangible personal property by eminent domain.

**The Out Years**

**State Impact:** See Above

**Municipal Impact:** See Above

**OLR Bill Analysis****sSB 881*****AN ACT CONCERNING THE TAKING OF INTANGIBLE PERSONAL PROPERTY BY THE STATE OR ANY POLITICAL SUBDIVISION.*****SUMMARY:**

This bill prohibits the state and its political subdivisions from taking by eminent domain (i.e., condemnation) intangible personal property (e.g., contract rights, corporate stock and franchises, and patent rights). The bill applies despite contrary law.

Numerous existing statutes authorize condemnation. Most authorize only the acquisition of real property and interests and rights therein. However, several specifically authorize the acquisition of personal property and the bill prohibits taking intangible personal property under them. For example, current law authorizes municipalities, municipal electric energy cooperatives, and transit districts to take personal property (CGS §§ 7-148, 7-233k, and 7-273e). In addition, New York's Metropolitan Transportation Authority and Connecticut's Department of Transportation (DOT), when acting together to provide railroad passenger service, can take personal property by eminent domain (CGS § 16-343). In a recent case, a Superior Court judge held that another DOT eminent domain statute applies to intangible property (see BACKGROUND).

EFFECTIVE DATE: January 1, 2016

**BACKGROUND*****Eminent Domain***

Eminent domain is a process by which a public body (and certain private bodies, such as utility companies, railroads, and redevelopment corporations) can acquire private property for a public use or purpose. The federal and state constitutions require that a

person whose property is taken by eminent domain be justly compensated.

***Collins Bus Service Inc. v. Redeker***

In a recent decision, a Connecticut Superior Court judge found that a statute authorizing the DOT commissioner to take “facilities” by eminent domain allows the commissioner to take intangible property, such as the rights companies hold by virtue of their state-issued certificates to provide bus transportation over specified routes (*Collins Bus Service Inc. v. Redeker*, No. CV146052771, 2014 WL 7595957 (Dec. 4, 2014) (under appeal)).

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/06/2015)